

(4) has been certified by the Secretary concerned as having the technical qualifications for detail to engineering or scientific duty;

(5) has completed at least three but less than nineteen years of engineering or scientific duty as an officer; and

(6) executes a written agreement to remain on active duty for detail to engineering or scientific duty for at least one year, but not more than four years;

may, upon acceptance of the written agreement by the Secretary concerned, be paid, in addition to all other compensation to which the officer is entitled, an amount not to exceed \$3,000 multiplied by the number of years, or monthly fraction thereof, of obligated service to which the officer agrees under the agreement. The total amount payable may be paid in a lump sum or in equal periodic installments, as determined by the Secretary concerned.

(c)(1) An officer who does not serve on active duty for the entire period for which he has been paid under subsection (b) shall refund that percentage of the payment that the unserved part of the period is of the total period for which the payment was made. Nothing in this subsection shall alter or modify the obligation of a regular officer to perform active service at the pleasure of the President. Completion by a regular officer of the total period of obligated service specified in an agreement under subsection (b) does not obligate the President to accept a resignation submitted by that officer.

(2) Subject to paragraph (3), and obligation to reimburse the United States imposed under paragraph (1) is for all purposes a debt owed to the United States.

(3) The Secretary concerned may waive, in whole or in part, a refund required under paragraph (1) if the Secretary concerned determines that recovery would be against equity and good conscience or would be contrary to the best interests of the United States.

(4) A discharge in bankruptcy under title 11 that is entered less than five years after the termination of an agreement under this section does not discharge the member signing such agreement from a debt arising under such agreement or under paragraph (1). This paragraph applies to any case commenced under title 11 after September 30, 1981.

(Added Pub. L. 97-60, title I, § 120(a), Oct. 14, 1981, 95 Stat. 998; amended Pub. L. 99-145, title VI, § 637(a), Nov. 8, 1985, 99 Stat. 648; Pub. L. 100-26, § 8(e)(6), Apr. 21, 1987, 101 Stat. 286; Pub. L. 102-25, title VII, § 702(b)(1), (2), (c), Apr. 6, 1991, 105 Stat. 117.)

AMENDMENTS

1991—Subsec. (c). Pub. L. 102-25 struck out “of this section” after “subsection (b)” in two places in par. (1) and struck out “of this subsection” after “paragraph (1)” in pars. (2) to (4) and after “paragraph (3)” in par. (2).

1987—Subsec. (a). Pub. L. 100-26 inserted “the term” after “In this section.”

1985—Subsec. (a). Pub. L. 99-145, § 637(a)(1), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: “In this section, the term ‘engineering or scientific duty’ means service performed by an offi-

cer that requires an engineering or science degree and that requires a skill designated under regulations prescribed by the Secretary of Defense as critical and as a skill in which there is a critical shortage of officers in the armed force concerned.”

Subsec. (b). Pub. L. 99-145, § 637(a)(2), in provision preceding par. (1), substituted “prescribed by the Secretary concerned” for “prescribed by the Secretary of Defense” and “officer of a uniformed service” for “officer of an armed force”.

EFFECTIVE DATE OF 1985 AMENDMENT

Section 637(b) of Pub. L. 99-145 provided that: “The amendments made by subsection (a) [amending this section] shall take effect on October 1, 1985.”

§ 316. Special pay: foreign language proficiency pay

(a) A member of the uniformed services—

(1) who is entitled to basic pay under section 204 of this title;

(2) who has been certified by the Secretary concerned within the past 12 months to be proficient in a foreign language identified by the Secretary concerned as being a language in which it is necessary to have personnel proficient because of national defense or public health considerations; and

(3) who—

(A) is qualified in a uniformed services specialty requiring such proficiency;

(B) received training, under regulations prescribed by the Secretary concerned, designed to develop such proficiency;

(C) is assigned to duties requiring such a proficiency; or

(D) is proficient in a foreign language for which the uniformed service may have a critical need (as determined by the Secretary concerned),

may be paid special pay under this section in addition to any other pay or allowance to which the member is entitled.

(b) The monthly rate for special pay under subsection (a) shall be determined by the Secretary concerned and may not exceed \$300.

(c)(1) Under regulations prescribed by the Secretary concerned, when a member of a reserve component who is entitled to compensation under section 206 of this title meets the requirements for special pay authorized in subsection (a), except the requirement prescribed in subsection (a)(1), the member may be paid an increase in compensation equal to one-thirtieth of the monthly special pay authorized under subsection (b) for a member who is entitled to basic pay under section 204 of this title.

(2) A member eligible for increased compensation under paragraph (1) shall be paid such increase—

(A) for each regular period of instruction, or period of appropriate duty, in which he is engaged for at least two hours, including instruction received or duty performed on a Sunday or holiday; and

(B) for each period of performance of such other equivalent training, instruction, duty, or appropriate duties, as the Secretary concerned may prescribe.

(3) This subsection does not apply to a member who is entitled to basic pay under section 204 of this title.

(d) This section shall be administered under regulations prescribed by the Secretary of Defense for the armed forces under the jurisdiction of the Secretary, by the Secretary of Homeland Security for the Coast Guard when the Coast Guard is not operating as a service in the Navy, by the Secretary of Health and Human Services for the Commissioned Corps of the Public Health Service, and by the Secretary of Commerce for the National Oceanic and Atmospheric Administration.

(Added Pub. L. 99-661, div. A, title VI, § 634(a)(1), Nov. 14, 1986, 100 Stat. 3884; amended Pub. L. 104-201, div. A, title VI, § 616(a), (b), Sept. 23, 1996, 110 Stat. 2547; Pub. L. 106-65, div. A, title VI, § 625(a), Oct. 5, 1999, 113 Stat. 654; Pub. L. 107-296, title XVII, § 1704(c), Nov. 25, 2002, 116 Stat. 2314.)

AMENDMENTS

2002—Subsec. (d). Pub. L. 107-296 substituted “of Homeland Security” for “of Transportation”.

1999—Subsec. (b). Pub. L. 106-65 substituted “\$300” for “\$100”.

1996—Subsec. (a). Pub. L. 104-201, § 616(a)(1), substituted “uniformed services” for “armed forces” in introductory provisions.

Subsec. (a)(2). Pub. L. 104-201, § 616(a)(2), substituted “Secretary concerned as being” for “Secretary of Defense as being” and inserted “or public health” after “national defense”.

Subsec. (a)(3)(A). Pub. L. 104-201, § 616(a)(3)(A), substituted “uniformed services” for “military”.

Subsec. (a)(3)(C). Pub. L. 104-201, § 616(a)(3)(B), struck out “military” before “duties requiring”.

Subsec. (a)(3)(D). Pub. L. 104-201, § 616(a)(3)(C), substituted “uniformed service” for “Department of Defense” and “Secretary concerned” for “Secretary of Defense”.

Subsec. (d). Pub. L. 104-201, § 616(b), substituted “the jurisdiction of the Secretary,” for “his jurisdiction and” and inserted before period at end “, by the Secretary of Health and Human Services for the Commissioned Corps of the Public Health Service, and by the Secretary of Commerce for the National Oceanic and Atmospheric Administration”.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107-296, set out as a note under section 101 of Title 10, Armed Forces.

EFFECTIVE DATE OF 1999 AMENDMENT

Pub. L. 106-65, div. A, title VI, § 625(b), Oct. 5, 1999, 113 Stat. 654, provided that: “The amendment made by subsection (a) [amending this section] shall take effect on October 1, 1999, and shall apply with respect to foreign language proficiency pay paid under section 316 of such title for months beginning on or after that date.”

EFFECTIVE DATE OF 1996 AMENDMENT

Section 616(c) of Pub. L. 104-201 provided that: “The amendments made by this section [amending this section] shall take effect on October 1, 1996, and apply with respect to months beginning on or after such date.”

EFFECTIVE DATE

Section 634(b) of Pub. L. 99-661 provided that: “Section 316 of title 37, United States Code, as added by subsection (a), shall take effect on the date of the enactment of this Act [Nov. 14, 1986], and shall apply with respect to pay periods beginning on or after that date.”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 316a of this title.

§ 316a. Waiver of certification requirement

(a) CERTIFICATION INTERRUPTED BY CONTINGENCY OPERATION.—(1) A member of the armed forces described in subsection (b) shall be paid special pay under section 316 of this title for the active duty performed by that member during the period described in paragraph (2) if—

(A) the member was assigned to duty in connection with a contingency operation;

(B) the Secretary concerned (under regulations prescribed by the Secretary of Defense) determines that the member was unable to schedule or complete the certification required for eligibility for the special pay under that section because of that duty;

(C) except for not meeting the certification requirement in that section, the member was otherwise eligible for that special pay for that active duty; and

(D) the member completes the certification requirement specified in that section before the end of the period established for the member in subsection (c).

(2) The period for which a member may be paid special pay for active duty pursuant to paragraph (1) is the period beginning on the date on which the member was assigned to the duty referred to in subparagraph (A) of that paragraph and ending on the date of the member’s certification referred to in subparagraph (D) of that paragraph.

(b) ELIGIBLE MEMBER DESCRIBED.—A member of the armed forces referred to in subsection (a) is a member who meets the requirement referred to in section 316(a)(3) of this title.

(c) PERIOD FOR CERTIFICATION.—The period referred to in subparagraph (D) of subsection (a)(1) with respect to a member of the armed forces is the 180-day period beginning on the date on which the member was released from the duty referred to in that subsection. The Secretary concerned may extend that period for a member in accordance with regulations prescribed by the Secretary of Defense.

(Added Pub. L. 102-190, div. A, title VI, § 636(a), Dec. 5, 1991, 105 Stat. 1382.)

OPERATION DESERT STORM DUTY ASSIGNMENT

Pub. L. 102-25, title III, § 306, Apr. 6, 1991, 105 Stat. 82, provided that:

“(a) CERTIFICATION INTERRUPTED BY OPERATION DESERT STORM.—A member of the Armed Forces described in subsection (b) who obtains a certification of foreign language proficiency before the end of the period established for the member in subsection (c) shall be paid foreign language proficiency pay under section 316 of title 37, United States Code, for active duty performed after August 2, 1990, and before the date of that certification if the Secretary of Defense determines that the member was unable to schedule or complete that certification earlier because of a duty assignment in connection with Operation Desert Storm.

“(b) ELIGIBLE MEMBERS DESCRIBED.—A member of the Armed Forces referred to in subsection (a) is a member on active duty who, except for subsection (a)(2) of that section, was otherwise eligible for special pay under that section during the duty assignment in connection with Operation Desert Storm.”